

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VP &  
MS PADMAVATHY S, AM**

**I.T.A. No. 5031/Mum/2025  
(Assessment Year: 2015-16)**

<b>Late Shri Shankerlal Kesarimal Jain Represented through L/H Mr. Bharat Dhakad, 2101/2012, Ramkripa CHS Ltd, Parekh Street, Prathana Samaj, Mumbai-400004. PAN: ADQPJ9637B</b>	Vs.	<b>ITO Ward-19(3)(1), Room No. 202, 2<sup>nd</sup> Floor, Matru Mandir, Tardeo Road, Mumbai-400007.</b>
<b>Assessee)</b>	:	<b>Revenue)</b>

**Assessee by** : Shri V. D. Parmar, AR  
**Revenue by** : Shri Surendra Mohan, Sr. DR  
**Date of Hearing** : 17.11.2025  
**Date of Pronouncement** : 02.12.2025

**ORDER**

**Per Padmavathy S, AM:**

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 14.07.2025 for Assessment Years (AY) 2015-16.

2. The assessee is an individual and filed the return of income for AY 2015-16 on 06.09.2025 declaring a total income of Rs. 7,630/-. The Assessing Officer

(AO) received information that the assessee Shri Shankarlal Kesarimal Jain has taken the benefit of bogus Long Term Capital Gains (LTCG) / Short Term Capital Loss (STCL) in connivance with JRI Industries & Infrastructure Ltd. and its associates. Accordingly, the AO issued a notice u/s. 148 on 18.05.2021. Subsequently as per the directions of Hon'ble Supreme Court in the case of Union of India vs. Ashish Agarwal (Civil Appeal No. 3005/2022 dated 04.05.2022) the said notice was treated as show-cause notice u/s. 148A(b) of the Act. The AO passed an order u/s. 148A(d) on 29.07.2022 and issued a notice u/s. 148 on the same date. The AO called on the assessee to file various details from time to time and completed the assessment u/s. 143(3) r.w.s. 147 where he made an addition of Rs. 89,98,527/- towards bogus LTCG u/s. 68 of the Act. Aggrieved the assessee filed further appeal before the CIT(A) who dismissed the appeal of the assessee. The assessee is in appeal before the Tribunal against the order of the CIT(A). The assessee raised several grounds on merits and raised the additional grounds raising the legal contention that the notice u/s 148 dated 29.07.2022 is barred by limitation. The ld. AR submitted that if the additional ground is admitted and adjudicated in favour of the assessee then the other grounds would become academic.

3. The additional ground raised is purely legal issue, which does not require investigation of new facts. Hence, placing reliance on the judgment of the Hon'ble Apex Court in the case of *National Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383 (SC)*, we admit the additional ground.

4. We heard the parties and perused the material on record. The contention of the ld. AR through additional ground is that the notice u/s. 148 issued on 29.07.2022 for AY 2015-16 is beyond the time limit of six years and therefore

barred by limitation. In this regard, we notice that the Co-ordinate Bench in the case of Manish Financial vs. ACIT [ITA No. 5055 & C.O. No. 231/Mum/2024 dated 02.12.2024] has considered an identical where it has been held that

*“6. We heard the parties and perused the material on record. In assessee's case, the AO issued the original notice under section 148 dated 29.06.2021 for AY 2015-16 and consequent to the directions given by the Hon'ble Supreme Court in the case of Ashish Agrawal (supra), the said notice was deemed as notice issued under section 148A(b). The AO after passing the order under section 148A(d) issued the notice under section 148 dated 29.07.2022. The contention of the assessee is that the said notice is barred by limitation as per the first proviso to the un-amended provisions of section 149(1) as has been confirmed by the decision of the Hon'ble Supreme Court in the case of Rajeev Bansal (Supra). The relevant observations of the Hon'ble Supreme Court reads as under –*

*19. Mr N Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:*

*(a) to (e)\*\*\*\*\**

*(f). The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;*

*\*\*\*\*\**

*46. The ingredients of the proviso could be broken down for analysis as follows:*

*(i) no notice under section 148 of the new regime can be issued at any time for an assessment year beginning on or before 1 April 2021;*

*(ii) if it is barred at the time when the notice is sought to be issued because of the "time limits specified under the provisions of" 149(1)(b) of the old regime.*

**Thus, a notice could be issued under section 148 of the new regime for assessment year 2021-2022 and before only if the time limit for issuance of such notice continued to exist under section 149(1)(b) of the old regime.**

*49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. **Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice.** This also ensures that the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the*

*Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesses.*

7. *This issue of notice under section 148 issued for 2015-16 being time barred is considered by the coordinate bench in the case of Pushpak Realities Pvt. Ltd.(supra) and it is held that*

*\*\*\*\*\* For the A.Y.2015-16, the Revenue itself has contended before the Hon'ble Supreme Court as noted above, all the notices issued on or after 01/04/2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA. Here notice u/s. 148 for the A.Y. 2015-16 has been issued on 28/07/2022 which is admittedly barred by limitation under the new provision of Section 149(1) and it is not covered under TOLA. Accordingly, all the notices are quashed being barred by limitation on the reasons given above and we are not going on the reasons given by the ld. CIT (A) for quashing the notice."*

8. *A combined reading of the above observations of the Hon'ble Supreme Court and the findings of coordinate bench makes it clear that the test for checking the validity of notices issued under section 148 under new regime for AYs 2021-22 or prior years is whether the period of six years has expired at the time of issue of such notice and in that case the notice under section 148 becomes invalid. These observations also makes it clear that the time limit of ten years as per the amended provisions of section 149(1)(b) can be applied only prospectively. In assessee's case when we apply this test for AY 2015-16, the period of six years has expired on 31.03.2022 and therefore the notice dated 29.07.2022 under section 148 of the Act for AY 2015-16 is invalid since it is barred by limitation. Accordingly the assessment completed under section 147 of the Act is liable to be quashed".*

5. The above view is affirmed by the Hon'ble jurisdictional High Court in the case of Cherian Nallathu Abraham Annamma Vs. ITO (W.P. No. 32774 of 2025) and similar view has been held by the Co-ordinate Bench in other judicial pronouncements also. The ratio laid down here is that for AY 2015-16 the notice u/s. 148 if issued beyond six years i.e. beyond 31.03.2022 then the notice becomes invalid. In the present case, the notice u/s. 148 is issued on 29.07.2022 which is beyond the time limit as provided u/s. 149 and therefore is barred by limitation. Accordingly, we hold that the notice u/s.148 which is issued beyond 6 years is not

valid and the reassessment carried out based on the invalid notice is liable to be quashed.

6. Since we have held the additional ground in favour of the assessee the other grounds raised have become academic.

7. In result, appeal of the assessee is allowed.

*Order pronounced in the open court on 02-12-2025.*

**Sd/-**  
**(SAKTIJIT DEY)**  
**Vice-President**

*\*SK, Sr. PS*

**Sd/-**  
**(PADMAVATHY S)**  
**Accountant Member**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**